



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0169

by Rep. Kenneth Dunkin

SYNOPSIS AS INTRODUCED:

5 ILCS 160/4a	
5 ILCS 160/17	from Ch. 116, par. 43.20
50 ILCS 205/3b	
50 ILCS 205/4	from Ch. 116, par. 43.104

Amends the State Records Act and the Local Records Act. Provides that within 180 days after an investigation by a law enforcement agency reveals that a person has been arrested as a result of mistaken identity and no charges have been filed against the person, the law enforcement agency whose officers made the arrest shall destroy the arrest records of that person made as a result of mistaken identity. Provides that the law enforcement agency shall establish an access and review process for verifying that the person's arrest records relating to arrests because of mistaken identity in which no charges have been filed have been destroyed. Provides that the law enforcement agency shall provide by rule the process for access, review, and automatic destruction of these records. Defines "arrest records" and "law enforcement agency".

LRB099 00239 RLC 20244 b

1 AN ACT concerning arrest records.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Records Act is amended by changing
5 Sections 4a and 17 as follows:

6 (5 ILCS 160/4a)

7 Sec. 4a. Arrest records and reports.

8 (a) When an individual is arrested, the following
9 information must be made available to the news media for
10 inspection and copying:

11 (1) Information that identifies the individual,
12 including the name, age, address, and photograph, when and
13 if available.

14 (2) Information detailing any charges relating to the
15 arrest.

16 (3) The time and location of the arrest.

17 (4) The name of the investigating or arresting law
18 enforcement agency.

19 (5) If the individual is incarcerated, the amount of
20 any bail or bond.

21 (6) If the individual is incarcerated, the time and
22 date that the individual was received, discharged, or
23 transferred from the arresting agency's custody.

1 (b) The information required by this Section must be made
2 available to the news media for inspection and copying as soon
3 as practicable, but in no event shall the time period exceed 72
4 hours from the arrest. The information described in paragraphs
5 (3), (4), (5), and (6) of subsection (a), however, may be
6 withheld if it is determined that disclosure would:

7 (1) interfere with pending or actually and reasonably
8 contemplated law enforcement proceedings conducted by any
9 law enforcement or correctional agency;

10 (2) endanger the life or physical safety of law
11 enforcement or correctional personnel or any other person;
12 or

13 (3) compromise the security of any correctional
14 facility.

15 (c) For the purposes of this Section, the term "news media"
16 means personnel of a newspaper or other periodical issued at
17 regular intervals whether in print or electronic format, a news
18 service whether in print or electronic format, a radio station,
19 a television station, a television network, a community antenna
20 television service, or a person or corporation engaged in
21 making news reels or other motion picture news for public
22 showing.

23 (d) Each law enforcement or correctional agency may charge
24 fees for arrest records, but in no instance may the fee exceed
25 the actual cost of copying and reproduction. The fees may not
26 include the cost of the labor used to reproduce the arrest

1 record.

2 (e) The provisions of this Section do not supersede the
3 confidentiality provisions for arrest records of the Juvenile
4 Court Act of 1987.

5 (f) All information, including photographs, made available
6 under this Section is subject to the provisions of Section 2000
7 of the Consumer Fraud and Deceptive Business Practices Act.

8 (Source: P.A. 98-555, eff. 1-1-14.)

9 (5 ILCS 160/17) (from Ch. 116, par. 43.20)

10 Sec. 17.

11 (a) Regardless of other authorization to the contrary,
12 except as otherwise provided in subsection (b) of this Section,
13 no record shall be disposed of by any agency of the State,
14 unless approval of the State Records Commission is first
15 obtained. The Commission shall issue regulations, not
16 inconsistent with this Act, which shall be binding on all
17 agencies. Such regulations shall establish procedures for
18 compiling and submitting to the Commission lists and schedules
19 of records proposed for disposal; procedures for the physical
20 destruction or other disposition of records proposed for
21 disposal; and standards for the reproduction of records by
22 digital, photographic, or microphotographic processes with the
23 view to the disposal of the original records. Such standards
24 shall relate to the electronic digital process and format,
25 quality of film used, preparation of the records for

1 reproduction, proper identification matter on the records so
2 that an individual document or series of documents can be
3 located on the film or electronic medium with reasonable
4 facility, and that the copies contain all significant record
5 detail, to the end that the photographic, microphotographic, or
6 digital copies will be adequate.

7 Such regulations shall also provide that the State
8 archivist may retain any records which the Commission has
9 authorized to be destroyed, where they have a historical value,
10 and that the State archivist may deposit them in the State
11 Archives or State Historical Library or with a historical
12 society, museum or library.

13 (b) Within 180 days after an investigation by a law
14 enforcement agency reveals that a person has been arrested as a
15 result of mistaken identity and no charges have been filed
16 against the person, the law enforcement agency whose officers
17 made the arrest shall destroy the arrest records of that person
18 made as a result of mistaken identity. The law enforcement
19 agency shall establish an access and review process for
20 verifying that the person's arrest records relating to arrests
21 because of mistaken identity in which no charges have been
22 filed have been destroyed as provided in this subsection. The
23 law enforcement agency shall provide by rule the process for
24 access, review, and automatic destruction of these records. In
25 this subsection (b):

26 "Arrest records" are as described in Section 4a of this

1 Act.

2 "Law enforcement agency" means an agency of this State
3 which is vested by law or ordinance with the duty to
4 maintain public order and to enforce criminal laws or
5 ordinances.

6 (Source: P.A. 92-866, eff. 1-3-03.)

7 Section 10. The Local Records Act is amended by changing
8 Sections 3b and 4 as follows:

9 (50 ILCS 205/3b)

10 Sec. 3b. Arrest records and reports.

11 (a) When an individual is arrested, the following
12 information must be made available to the news media for
13 inspection and copying:

14 (1) Information that identifies the individual,
15 including the name, age, address, and photograph, when and
16 if available.

17 (2) Information detailing any charges relating to the
18 arrest.

19 (3) The time and location of the arrest.

20 (4) The name of the investigating or arresting law
21 enforcement agency.

22 (5) If the individual is incarcerated, the amount of
23 any bail or bond.

24 (6) If the individual is incarcerated, the time and

1 date that the individual was received, discharged, or
2 transferred from the arresting agency's custody.

3 (b) The information required by this Section must be made
4 available to the news media for inspection and copying as soon
5 as practicable, but in no event shall the time period exceed 72
6 hours from the arrest. The information described in paragraphs
7 (3), (4), (5), and (6) of subsection (a), however, may be
8 withheld if it is determined that disclosure would:

9 (1) interfere with pending or actually and reasonably
10 contemplated law enforcement proceedings conducted by any
11 law enforcement or correctional agency;

12 (2) endanger the life or physical safety of law
13 enforcement or correctional personnel or any other person;
14 or

15 (3) compromise the security of any correctional
16 facility.

17 (c) For the purposes of this Section the term "news media"
18 means personnel of a newspaper or other periodical issued at
19 regular intervals whether in print or electronic format, a news
20 service whether in print or electronic format, a radio station,
21 a television station, a television network, a community antenna
22 television service, or a person or corporation engaged in
23 making news reels or other motion picture news for public
24 showing.

25 (d) Each law enforcement or correctional agency may charge
26 fees for arrest records, but in no instance may the fee exceed

1 the actual cost of copying and reproduction. The fees may not
2 include the cost of the labor used to reproduce the arrest
3 record.

4 (e) The provisions of this Section do not supersede the
5 confidentiality provisions for arrest records of the Juvenile
6 Court Act of 1987.

7 (f) All information, including photographs, made available
8 under this Section is subject to the provisions of Section 2000
9 of the Consumer Fraud and Deceptive Business Practices Act.
10 (Source: P.A. 98-555, eff. 1-1-14.)

11 (50 ILCS 205/4) (from Ch. 116, par. 43.104)

12 Sec. 4.

13 (a) Except as otherwise provided in subsection (b) of this
14 Section, all ~~All~~ public records made or received by, or under
15 the authority of, or coming into the custody, control or
16 possession of any officer or agency shall not be mutilated,
17 destroyed, transferred, removed or otherwise damaged or
18 disposed of, in whole or in part, except as provided by law.
19 Any person who knowingly, without lawful authority and with the
20 intent to defraud any party, public officer, or entity, alters,
21 destroys, defaces, removes, or conceals any public record
22 commits a Class 4 felony.

23 Court records filed with the clerks of the Circuit Court
24 shall be destroyed in accordance with the Supreme Court's
25 General Administrative Order on Recordkeeping in the Circuit

1 Courts. The clerks of the Circuit Courts shall notify the
2 Supreme Court, in writing, specifying case records or other
3 documents which they intend to destroy. The Supreme Court shall
4 review the schedule of items to be destroyed and notify the
5 appropriate Local Records Commission of the Court's intent to
6 destroy such records. The Local Records Commission, within 90
7 days after receipt of the Supreme Court's notice, may undertake
8 to photograph, microphotograph, or digitize electronically any
9 or all such records and documents, or, in the alternative, may
10 transport such original records to the State Archives or other
11 storage location under its supervision.

12 The Archivist may accept for deposit in the State Archives
13 or regional depositories official papers, drawings, maps,
14 writings and records of every description of counties,
15 municipal corporations, political subdivisions and courts of
16 this State, when such materials are deemed by the Archivist to
17 have sufficient historical or other value to warrant their
18 continued preservation by the State of Illinois.

19 The officer or clerk depositing such records may, upon
20 request, obtain from the Archivist, without charge, a certified
21 copy or reproduction of any specific record, paper or document
22 when such record, paper or document is required for public use.

23 (b) Within 180 days after an investigation by a law
24 enforcement agency reveals that a person has been arrested as a
25 result of mistaken identity and no charges have been filed
26 against the person, the law enforcement agency whose officers

1 made the arrest shall destroy the arrest records of that person
2 made as a result of mistaken identity. The law enforcement
3 agency shall establish an access and review process for
4 verifying that the person's arrest records relating to arrests
5 because of mistaken identity in which no charges have been
6 filed have been destroyed as provided in this subsection. The
7 law enforcement agency shall provide by rule the process for
8 access, review, and automatic destruction of these records. In
9 this subsection (b):

10 "Arrest records" are as described in Section 3b of this
11 Act.

12 "Law enforcement agency" means an agency of a unit of
13 local government which is vested by law or ordinance with
14 the duty to maintain public order and to enforce criminal
15 laws or ordinances.

16 (Source: P.A. 98-1063, eff. 1-1-15.)